

Remarks

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendment, claims 1-24 are pending in the application, with claims 1, 12 and 20 being the independent claims.

Examiner Interview

Applicants appreciate the courtesies extended by the Examiner during the interview conducted on May 25, 2004. During the interview, the rejection of claims 1-24 under 35 U.S.C. 112 was discussed. Applicants noted that the written description addresses the calculation of an average energy in an actuator as recited in the claims. The Examiner suggested that the claims be amended to expressly state what energy is being calculated. Applicants agreed to amend the claims to overcome the rejection.

Claim Rejections Under 35 U.S.C. 112

Claims 1-24 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states that it is unclear what is meant by the phrase "calculating an average energy in an actuator." Applicants note that it is clear from the written description that the calculated average energy is the energy input to the actuator. (See, e.g., page 17, lines 4-22). For at least this reason, Applicants respectfully submit that no claim amendments are necessary. Nevertheless, to further prosecution, Applicants have amended the claims to define "the energy" recited in the claims as the energy input to the actuator.

Double Patenting Rejection

Claims 1 and 12 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 71 of copending application Serial No. 10/079,379. Applicants are filing a Terminal Disclaimer herewith to overcome the double patenting rejection.

Allowable Subject Matter

Applicants appreciate the Examiner's indication of allowable subject matter in this application.

Conclusion

All of the stated grounds of rejection have been properly traversed or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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